

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Javit A. Drake et al.	Art Unit :	1745
Serial No. :	10/664,822	Examiner :	Robert W. Hodge
Filed :	September 16, 2003	Conf. No. :	3431
Title :	ENHANCED FUEL DELIVERY FOR DIRECT METHANOL FUEL CELLS		

Mail Stop Amendment

Commissioner for Patents

P.O. Box 1450

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RESPONSE TO RESTRICTION REQUIREMENT

Applicant gratefully acknowledges that the examiner withdrew the previous Restriction Requirement.

Responsive to the action mailed November 15, 2006, applicant elects the invention of Group I drawn to the embodiment of a fuel cartridge having a membrane. The election is made without traverse.

However the examiner stated that:

This application contains claims directed to the following patentably distinct species: If applicant elects claim group I, then applicant must further elect one species from the following distinct figures:

Species 1, figure 2a
Species 2, figure 2b
Species 3, figure 2c
Species 4, figures 2d and 2e

The examiner also stated that: "Furthermore if applicants elect claim group I then applicants must [elect] one species for the membrane found in claims 9, 18, 19 and 29, one species for the substrate found in claims 17, 23, 28 and 33 and one species for the methanol-impermeable coating found in claims 22 and 32. This species requirement is **traversed** for the reasons discussed below.

Applicant elects the species of "**Species 2, figure 2b**" for prosecution on the merits.

Applicant also elects for prosecution the species of **polyurethanes** for claims 9, 18, 19 and 29.

Applicant also elects for prosecution the species of **polyethylene** for the substrate found in claims 17, 23, 28 and 33.

Applicant also elects for prosecution the species of **a cross-linked rubber** for the methanol-impermeable coating found in claims 22 and 32.

Applicant traverses the examiner's contention that currently only claim 1 is generic. Applicant contends that claims 1, 6-10 are generic.

In reply to this requirement the following claims are identified as readable on the elected species.

Claims 1, 2 and 6-10 are readable on species 1.

Claims 1-4, 6-10 are readable on elected species 2. In addition claims 11-33 are readable on elected species 2.

Claims 1, 4 and 6-10 are readable on species 3.

Claims 1, 5 and 6-10 are readable on species 4.

Applicant traverses the species election and specifically the species election for the polymer material, substrate and coating. The examiner has not shown that a search and examination of the disclosed sub-species would be a burden to the examiner, since each Markush group includes a limited number of members.

Moreover, the examiner has not shown that these sub-species would be patentable one over the other.¹ 37 CFR 1.146. Election of species provides that the species must be patentable distinct. No showing has been made as to why a fuel cartridge encompassing the features of claim 1 with the enhanced planar vaporization membrane comprised of, e.g., polyurethanes, would be patentable distinct over one comprised of silicones, or poly(trimethylsilyl-propyne), or polymeric compositions and composites.

Similar showings would need to be made with respect to the substrate and to the coating. No showing has been made with respect to any of the sub-species. Therefore, under CFR 1.146, Applicant contends that this requirement is in error and the requirement be traversed.

¹ 37 CFR 1.146. Election of species.

In the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted if no claim to the genus is found to be allowable. However, if such application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application.

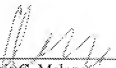
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Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 3/5/07


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